

**IDAPA 11 - IDAHO STATE POLICE
IDAHO STATE RACING COMMISSION**

11.04.09 - RULES GOVERNING CLAIMING RACES

DOCKET NO. 11-0409-0901 (NEW CHAPTER)

NOTICE OF RULEMAKING - TEMPORARY AND PROPOSED RULE

EFFECTIVE DATE: The effective date of the temporary rule is January 1, 2009.

AUTHORITY: In compliance with Sections 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a temporary rule, and proposed regular rulemaking procedures have been initiated. The action is authorized pursuant to Section 54-2506, Idaho Code.

PUBLIC HEARING SCHEDULE: Public hearing(s) concerning this rulemaking will be held as follows:

TUESDAY - JANUARY 13, 2009 - 6:00 p.m.

**NAMPA CIVIC CENTER
Home Federal Room
311 3RD Street South, Nampa, ID**

The hearing site(s) will be accessible to persons with disabilities. Requests for accommodation must be made not later than five (5) days prior to the hearing, to the agency address below.

DESCRIPTIVE SUMMARY: The following is the required finding and concise statement of its supporting reasons for adopting a temporary rule and a nontechnical explanation of the substance and purpose of the proposed rulemaking:

This rule provides a clear concise rule Chapter on Claiming Races. In addition, this rule conforms more closely with the Association of Racing Commissioners International Model Rules in a plain English format.

TEMPORARY RULE JUSTIFICATION: Pursuant to Section(s) 67-5226(1) (c), Idaho Code, the Governor has found that temporary adoption of the rule is appropriate for the following reasons: Confers a benefit.

FEE SUMMARY: Pursuant to Section 67-5226(2), the Governor has found that the fee or charge being imposed or increased is justified and necessary to avoid immediate danger and the fee is described herein: N/A

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars (\$10,000) during the fiscal year: N/A

NEGOTIATED RULEMAKING: Pursuant to Section 67-5220(2), Idaho Code, negotiated rulemaking was not conducted. However this rule was developed with input from a committee comprised of representatives of all segments of the horse racing industry.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS: For assistance on technical questions concerning the temporary and proposed rule, contact Idaho State Racing Commission, 208-884-7080.

Anyone may submit written comments regarding this proposed rulemaking. All written comments must be directed to the undersigned and must be delivered on or before January 28, 2009.

DATED this 12th day of November, 2008.

Dennis Jackson
Executive Director
Idaho State Racing Commission
Phone: 208-884-7080 / Fax: 208-884-7098

700 S. Stratford Drive
PO Box 700
Meridian, ID 83780-0700

THE FOLLOWING IS THE TEXT OF DOCKET NO. 11-0409-0901

IDAPA 11
TITLE 04
CHAPTER 09

IDAHO STATE RACING COMMISSION

11.04.09 - RULES GOVERNING CLAIMING RACES

000. LEGAL AUTHORITY.

This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (1-1-09)T

001. TITLE AND SCOPE.

01. Title. This chapter is cited as IDAPA 11.04.09 "Rules Governing Claiming Races". (1-1-09)T

02. Scope. This chapter describes the procedures and requirements for the claiming of horses and the conduct of claiming races. (1-1-09)T

002. WRITTEN INTERPRETATIONS.

There are no written interpretations of these rules. (1-1-09)T

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal racing commission actions authorized under these rules pursuant to Title 67, Chapter 52, Idaho Code. (1-1-09)T

004. INCORPORATION BY REFERENCE.

No documents are incorporated by reference into these rules. (1-1-09)T

005. OFFICE -- OFFICE HOURS -- STREET ADDRESS -- MAILING ADDRESS -- TELEPHONE -- WEBSITE.

01. Physical Address. The central office of the Idaho State Racing Commission is located at 700 S. Stratford Drive, Meridian, Idaho. (1-1-09)T

02. Office Hours. The central office is open 8 a.m. to 5 p.m., Mountain Time, Monday thru Friday, except holidays designated by the state of Idaho. (1-1-09)T

03. Mailing Address. The mailing address for the central office is Idaho State Racing Commission, P.O. Box 700, Meridian, Idaho 83680-0700. (1-1-09)T

04. Telephone Number. The telephone of the office is (208) 884-7080. (1-1-09)T

05. Fax Number. The facsimile number of the office is (208) 884-7098. (1-1-09)T

06. Website. The Racing Commission website is <http://www.isp.state.id.us/race>. (1-01-08)T

006. PUBLIC RECORDS COMPLIANCE AND AVAILABILITY.

These rules are public records available for inspection and copying at the Idaho State Racing Commission central office or on the Racing Commission website. (1-1-09)T

007. -- 009. (RESERVED).

010. DEFINITIONS.

- 01. Certificate of Registration.** A document identifying a horse, its breeding and registry. (1-1-09)T
- 02. Claimant.** A person who has successfully claimed a horse in a claiming race. (1-1-09)T
- 03. Claimed.** A horse that has been properly purchased under these rules. (1-1-09)T
- 04. Claiming Race.** A race in which any horse starting may be purchased for a designated amount in conformance with this chapter. (1-1-09)T
- 05. Colt.** An intact male horse under five (5) years of age. (1-1-09)T
- 06. Eligible.** A horse that is qualified to run in a race under these rules. (1-1-09)T
- 07. Eligible Person.** A licensed owner, licensed trainer or authorized agent who has been properly authorized to claim a horse. (1-1-09)T
- 08. Engagements.** Race days where a horse has been entered to race. (1-1-09)T
- 09. Filly.** A female horse that has not reached five (5) years of age. (1-1-09)T
- 10. Gelding.** An altered male horse of any age. (1-1-09)T
- 11. Horse.** Includes filly, mare, colt, horse or gelding in general; when referring to sex, a horse is an intact male when five (5) years old or older. (1-1-09)T
- 12. Ineligible or Undisclosed Person.** A person that is not eligible to be licensed or a person who has not been properly authorized to claim a horse. (1-1-09)T
- 13. In-foal.** A filly or mare that is pregnant. (1-1-09)T
- 14. Licensed Authorized Agent.** A person licensed by the Racing Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act. (1-1-09)T
- 15. Mare.** A female horse that has reached the age of five (5) years. (1-1-09)T
- 16. Officials.** Persons licensed by the state to ensure the rules of racing are enforced. (1-1-09)T
- 17. Owner.** A person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse. (1-1-09)T
- 18. Racing Association.** Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (1-1-09)T
- 19. Racing Commission.** Three (3) member Idaho State Racing Commission created by Section 54-2503, Idaho Code, or its designee. (1-1-09)T
- 20. Racing Commission Employee.** An employee of the Idaho State Police supervised by the Executive Director of the Racing Commission, who is necessary to implement, administer and enforce Section 54-2501, Idaho Code. (1-1-09)T
- 21. Racing Secretary.** The employee of a racing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. (1-1-09)T

22. **Stable.** All the race horses belonging to a particular owner. (1-1-09)T
23. **Starter Allowance Race.** A race where entrants must have established eligibility by participation in a previous race. (1-1-09)T
24. **Steward.** A horse racing official who presides over a race meeting, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (1-1-09)T
25. **Title.** Legal document showing ownership of a horse. (1-1-09)T
26. **Transfer.** To convey the possession or legal title of a horse to another. (1-1-09)T
- 011. ABBREVIATIONS.**
There are no abbreviations used in these rules. (1-1-09)T
- 012. -- 019. (RESERVED).**
- 020. FREE AND CLEAR TITLE.**
No person may enter a horse in a claiming race unless the title to said horse is free and clear of any existing lien, either as security interest mortgage, bill of sale, or lien of any kind. (1-1-09)T
- 021. TITLE VESTED.**
Title to a claimed horse must be transferred to the claimant at the time the horse becomes an official starter. The successful claimant must then become the owner of the horse whether it be alive or dead, sound or unsound or injured at any time after becoming an official starter. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse. (1-1-09)T
- 022. -- 024. (RESERVED).**
- 025. IN-FOAL FILLY OR MARE.**
An in-foal filly or mare is eligible to be entered into a claiming race only if the following conditions are fulfilled: (1-1-09)T
01. **Condition Disclosed.** Full disclosure of such fact is on file with the racing secretary and such information is posted in the racing office; (1-1-09)T
02. **Service Certificate.** The stallion service certificate has been deposited with the racing secretary's office; and (1-1-09)T
03. **Release of Service Certificate.** The release of the stallion service certificate to the successful claimant at the time of claim is guaranteed. (1-1-09)T
- 026. -- 028. (RESERVED).**
- 029. RESCISSION OF CLAIM.**
The stewards may set aside and order rescission of a claim for any horse from a claiming race run in Idaho upon a showing that any party to the claim committed a prohibited action, as specified in any Racing Commission rule, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of any Racing Commission rule. Should the stewards order a rescission of a claim, they may make a further order for the costs of maintenance and care of the horse as they may deem appropriate. (1-1-09)T
- 030. CLAIMED FOR ENTERED PRICE.**
Any horse starting in a claiming race is subject to be claimed for its entered price by any: (1-1-09)T
01. **Licensed Owner.** Owner licensed in Idaho; (1-1-09)T
02. **Authorized Agent.** Licensed authorized agent acting on behalf of an eligible person. (1-1-09)T

031. -- 034. (RESERVED).

035. ELIGIBLE HORSES.

No horse which has been claimed out of a claiming race in which said horse was declared the official winner, is eligible to start in any other claiming race for a period of thirty (30) days, exclusive of the day it was claimed, for less than twenty-five percent (25%) more than the amount for which it was claimed. A horse which has been claimed out of a claiming race in which said horse was not declared the official winner may be eligible to start for any price desired by the claimant. No horse which has been claimed out of a claiming race is eligible to race at any other race meeting in this state or elsewhere until the close of the meeting where it was claimed, unless its removal from the grounds of such meeting is approved by the Stewards for good cause or is required by the Racing Association where it was claimed. (1-1-09)T

036. -- 039. (RESERVED).

040. STARTER ALLOWANCE RACE.

A horse which has been claimed must re-establish eligibility for a starter allowance race by running in a claiming race. (1-1-09)T

041. -- 049. (RESERVED).

050. PROHIBITIONS.

01. Financial or Beneficial Interest. A person may not claim a horse in which the person has a financial or beneficial interest as an owner or trainer. (1-1-09)T

02. Undisclosed Financial or Beneficial Interest. A person may not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse. (1-1-09)T

03. Agreement. A person may not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race. (1-1-09)T

04. Ineligible or Undisclosed Person. A person may not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person. (1-1-09)T

05. No more than One Horse. A person may not claim more than one (1) horse in a race. No authorized agent may submit more than one (1) claim for the same horse in a race, even if the authorized agent represents several owners. (1-1-09)T

051. -- 059. (RESERVED).

060. VALID CLAIMS.

To make a valid claim for a horse, an eligible person must: (1-1-09)T

01. Funds on Deposit. Have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; (1-1-09)T

02. Written Claim Form. Complete a written claim on a form furnished by the racing association and approved by the Racing Commission; (1-1-09)T

03. Horses Name. Identify the horse to be claimed by the spelling of its name as the name appears on the certificate of registration or as spelled on the official program; (1-1-09)T

04. Sealed Envelope. Place the completed claim form inside a sealed envelope furnished by the racing association and approved by the Racing Commission; (1-1-09)T

05. Time of Day. Have the time of day that the claim is entered, recorded or electronically stamped by

a racing official at the paddock on the envelope; and (1-1-09)T

06. Deposit Envelope. Have the envelope deposited in the claim box no later than ten (10) minutes prior to post time of the race for which the claim is entered. (1-1-09)T

061. -- 064. (RESERVED).

065. CLAIMS ARE IRREVOCABLE.

After a claim has been deposited in the claim box, it is irrevocable by the claimant and may not be withdrawn from the claim box until the time designated by the stewards. (1-1-09)T

066. -- 069. (RESERVED).

070. NO INFORMATION PROVIDED.

Officials and employees of the racing association may not provide any information as to the filing of claims until after the race has been run, except as is necessary for processing of the claim. (1-1-09)T

071. -- 079. (RESERVED).

080. MORE THAN ONE CLAIM.

If more than one (1) claim is filed on a horse, the successful claim must be determined by drawing lots conducted by the Stewards or their representatives. (1-1-09)T

081. -- 089. (RESERVED).

090. SEX OR AGE OF A HORSE CLAIMED.

Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse is solely responsible for the determination of the sex or age of any horse claimed. (1-1-09)T

091. -- 099. (RESERVED).

100. TRANSFER OF OWNERSHIP.

Upon successful claim an authorization of transfer of the horse from the original owner to the claimant must be issued by the stewards on forms approved by the Racing Commission. Copies of the transfer authorization must be forwarded to and maintained by the stewards and the racing office. Upon notification by the stewards, the horsemen's bookkeeper must immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees. (1-1-09)T

101. -- 109. (RESERVED).

110. TRANSFER OF POSSESSION.

Transfer of possession of a claimed horse must take place immediately after the race has been run unless otherwise directed by the stewards. If the horse is required to be taken to the test barn for post-race testing, the original trainer or an authorized representative must maintain physical custody of the claimed horse and must observe the testing procedure and sign the test sample tag. The successful claimant or an authorized representative of that claimant may also accompany the horse to the test barn. (1-1-09)T

111. -- 119. (RESERVED).

120. DELIVERY OF A CLAIMED HORSE.

No person may refuse to deliver a properly claimed horse to the successful claimant. (1-1-09)T

121. -- 129. (RESERVED).

130. TRANSFER OF ENGAGEMENTS.

When a horse is claimed out of a claiming race, the horse's engagements and eligibilities are transferred, with the horse, to the claimant. (1-1-09)T

131. -- 139. (RESERVED).

140. RESALE OR TRANSFER OF OWNERSHIP.

Ownership interest in any horse claimed from a race may not be resold or transferred for thirty (30) days after such horse was claimed, except by claim from a subsequent race. (1-1-09)T

141. -- 149. (RESERVED).

150. CONTROL OR MANAGEMENT OF FORMER OWNER.

A claimed horse may not remain in the same stable or under the control or management of its former owner. (1-1-09)T

151. -- 989. (RESERVED).

990. PENALTIES.

Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (1-1-09)T

991. -- 998. (RESERVED).

999. MINOR VIOLATIONS.

Nothing in these rules may be construed as requiring the Racing Commission to report minor violations when the Racing Commission believes that the public interest will be best served by suitable warnings or other administrative action. (1-1-09)T